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Attorney for Plaintiff
 Hao Xu

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION**

Hao Xu,

Plaintiffs,

v.

Michael B. Mukasey*, United States Attorney
 General, U.S. Department of Justice,
Michael Chertoff, Secretary of the Department
 of Homeland Security,
Emilio T. Gonzalez, Director of United States
 Citizenship and Immigration Services,

Defendants.

) Case No. C 07-3383 PVT
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)
)

**STIPULATION TO HOLD CASE IN
 ABEYANCE AND [PROPOSED] ORDER**

The plaintiff, by and through his attorney of record, and defendants, by and through their attorney of record, hereby stipulate, subject to approval of the Court, to hold the above titled action in abeyance, in light of the following:

* Alberto Gonzales resigned from his post as Attorney General on September 17, 2007. Michael B. Mukasey is currently the United States Attorney General.

- 1 1. On October 3, 2007, the Court ordered that the cross-motions for summary judgment for this
- 2 case would be resolved on the papers without a hearing.
- 3 2. On October 16 and 17, 2007, the parties filed their cross-motions for summary judgment.
- 4 3. On October 30, 2007, the parties filed their opposition motions.
- 5 4. All motions and oppositions have been submitted and the Court is currently deliberating the
- 6 outcome.
- 7 5. On November 13, 2007, the State Department issued the Visa Bulletin for December 2007,
- 8 stating that there were no longer any employment-based visas available in December 2007, for
- 9 applicants with Plaintiff's priority date. (The Visa Bulletin is attached as Exhibit A)
- 10 6. The State Department cannot issue an employment-based visa to Plaintiff during the month
- 11 of December 2007, and thus by statute, the USCIS is unable to adjudicate the application for
- 12 adjustment of status which is at issue in this case.
- 13 7. Therefore, the parties hereby request this Court to hold this case in abeyance until visas
- 14 become available again. Within three days of visas becoming available, the parties shall notify
- 15 the Court.

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18 Dated: November 19, 2007

_____/s/
JUSTIN FOK
Attorney for Plaintiff

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22 Dated: November 19, 2007

_____/s/
ILA C. DEISS
Assistant United States Attorney
Attorney for Defendants

[PROPOSED] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED that the case is temporarily held in abeyance. The parties shall notify the Court within three days of visas becoming available.

Dated: November __, 2007

Patricia V. Trumbull
United States Magistrate Judge